

## **NOTE CONCERNING GENERAL ORDER 2-31, SEXUAL ASSAULT**

Sexual assault is a terrifying, brutal and often humiliating crime. It can happen to a man as well as a woman and to a child as well as an elderly person. It includes any sexual conduct that a person is forced into without his or her consent (*Virginia Code* Title 18). Each victim requires strong support from medical, legal, law enforcement, victim assistance services, and social services personnel.

The crime of sexual assault is often misunderstood in society. In order to deal effectively with those who have survived a sexual assault and educate others about the crime, law enforcement must understand that rape and other sexual assaults are not crimes of passion, but acts of criminal aggression. The offender is solely responsible for the sexual assault, and it is inappropriate to think a victim “shares” blame even if there is prior behavior that might be regarded as risky. Even possibly illegal conduct by a victim – for example, drug use or criminal trespass at a place being used for a party – does not change the victim’s status or in any way mitigate the crime of the sexual assault. In such cases, the investigator properly records all details of the incident, but does not excuse one person’s crimes based upon possible victim involvement in other illegal behavior.

Victims react to an attack in a variety of ways. The stereotype of a hysterical woman calling the police is just that--a stereotype. Many victims appear calm and composed. The emotional state of the victim immediately following the assault is one of intense emotional shock. That shock may be expressed as hysteria, anger, fear, or as outward calm. But disbelief and shock are usually the underlying feelings.

Reporting the crime is often difficult for victims. The FBI estimates that a large percentage of sexual assaults are not reported to law enforcement. Some experts believe that most sexual assaults are not reported to law enforcement. Victims of sexual assault may have difficulty deciding what to do after the crime. Official reports have many uses. Once the report is taken, it can be kept on file for future use. As rapists are recidivists (repeaters), law-enforcement officers, with the aid of several written reports, can often identify the person based on his similar mode of operation and description. Victims may also begin the reporting and investigation process and then become hesitant or fearful and refuse to cooperate further. This is understandable and never grounds for charging the person with making a false report.

Officers who first come into contact with a sexual assault victim may be the most important people the psychologically and physically violated victim will see. It is important to remember that a rape undermines the victim's sense of control. She (or he) must be allowed to regain a feeling of control by making decisions and by being listened to in a supportive, nonjudgmental way.

Most officers understand the technical aspects of evidence collection necessary for the case. Their difficulty is in handling their discomfort when interviewing a victim. Many officers report that this feeling makes the evidence collection and the technical investigation more difficult. Regardless of the result of the police investigation, the establishment of rapport between the officer and the victim is always a plus. Being able to respond to sexual assault victims in a constructive way is a benefit to the officer, because it improves the quality of investigations and enhances the department's image in the community. Being knowledgeable about sexual assault crisis centers, counselors and

other resources may provide reassurance and confidence to the victim in the ability of law enforcement officers to both help the victim and solve the crime.

*Revised February 2005*

<b>POLICE/SHERIFF'S DEPARTMENT</b>		<b>GENERAL ORDERS</b>	
<b>SUBJECT: Sexual Assault</b>		<b>NUMBER: 2-31</b>	
<b>EFFECTIVE DATE: January 2005</b>		<b>REVIEW DATE: <i>(annually)</i></b>	
<b>AMENDS/SUPERSEDES: GO 2-31, July 1999</b>		<b>APPROVED: _____ Chief of Police/Sheriff</b>	
<b>CALEA STANDARDS: 42.2</b>		<b>VLEPSC STANDARDS: OPR.02.01-.06</b>	

## **NOTE**

This order is for internal use only, and does not enlarge an officer's civil or criminal liability in any way. It should not be construed as the creation of a higher standard of safety or care in an evidentiary sense, with respect to third-party claims. Violations of this directive, if proven, can only form the basis of a complaint by this department, and then only in a non-judicial administrative setting.

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## **I. POLICY**

The department recognizes the fact that sexual assaults (rape, forcible sodomy, sexual battery, object penetration, and attempts thereof) are personal violent crimes that have great psychological and physical effects on the victims. It is the policy of the department to assist sexual assault victims in a supportive manner, using appropriate crisis intervention skills (see appendix to GO 2-28). Because of the seriousness of these offenses and the delicate nature of the investigations involved, it is important for the department to undertake diligent investigations in order to increase the reporting of these crimes. Reducing recidivism and serial criminal offenses through the apprehension and prosecution of the assailants is a department priority. The thorough, complete and accurate collection of evidence is a vital and often key requirement for successful investigation and prosecution of sexual assaults.

## II. PURPOSE

To outline a protocol for coordinated preliminary and follow-up investigations of sexual assault and other related offenses.

## III. PROCEDURES

### A. General responsibilities

1. "Sexual assault" means those offenses involving sexual penetration or sexual contact with any person by force or threat of force, fear, intimidation, ruse, or through the use of a person's mental incapacity or physical helplessness, or any other attempts to force sexual penetration/contact on any person.
2. Department personnel shall be aware of community services available to victims of sexual assault. *[Refer specifically to the services in your jurisdiction, including sexual assault crisis centers/hotlines, mental health centers, forensic nurse programs, and a victim assistance program.]*
3. Department personnel shall be trained and knowledgeable about sexual assault investigation and its impact on victims.
4. Department personnel shall use appropriate communication skills when interacting with sexual assault victims.

### B. Dispatcher (communication center) responsibilities

1. If hospital personnel call in the sexual assault report, the dispatcher shall obtain initial information only (name and location of victim, reporter's name and job title, victim's condition). Confirm that a sexual assault crisis center support person has been contacted for the victim.
2. If the victim calls to make a report, she or he may or may not want police intervention.
  - a. If the victim wants no department response, the dispatcher shall observe the following procedures.
    - (1) Try to obtain as much information as possible concerning the crime details. Do not insist on the victim's identity.
    - (2) Encourage the victim to go to the hospital for treatment and evidence collection. Advise the victim that an officer will

meet with her there. (Note: the Virginia Supreme Court pays expenses related to the PERK (Physical Evidence Recovery Kit) exam). **The Criminal Injuries Compensation Fund applies, per *Virginia Code* § 19.2-368.18.**

- (3) Even if no report is made, refer the victim to a sexual assault crisis center and victim/witness program for further assistance.
- b. If the victim wants a law-enforcement response, the dispatcher shall observe the following.
- (1) Obtain initial information only such as name, present location, telephone number, victim's condition, and basic incident details.
  - (2) Ensure the victim's safety. A patrol car shall be dispatched immediately. Ask for name of the assailant, if known, description, possible location or direction and means of flight from the scene, and the time elapsed since the crime. Stay on the line until the officer arrives, if possible. Be supportive and use crisis intervention skills. (See appendix to GO 2-28.)
  - (3) If the assault occurred within the last 96 hours, explain to the victim the necessity of **not** performing the following activities: washing self or clothes, brushing teeth, eating, drinking, smoking, douching, combing hair or putting on make-up, going to the toilet, and touching or moving anything at crime scene. If the victim has already done any of these things, reassure victim, but ask not to do any more "cleanup." There is some possibility that evidence can be recovered even after 96 hours. Investigators should consult with a Forensic Nurse Examiner.
  - (4) If the assault occurred more than 96 hours earlier, recommend that the victim seek medical attention anyway and dispatch an officer.
  - (5) Ask the victim if he or she wishes the presence of a sexual assault crisis center advocate, family member or friend for further support (at the hospital or department), and offer to contact that person.

- (6) Ask if victim has transportation or not. Have officer go to wherever victim is, if possible. Facilitate the transportation of the victim to the hospital or department (see GO 2-28, Victim Services, transportation procedure) or explain that an officer will meet the victim at the specific location.
3. Give a complete report of information obtained to the patrol officer assigned to the case before he or she initially contacts the victim.
4. See Victim Services, dispatcher responsibilities (GO 2-28) for additional procedures.
5. **Some localities have local protocols concerning the activation of the Sexual Assault Response Team (SART). If this applies to your locality, ensure that all protocols are also followed.**

C. Patrol responsibilities

1. The patrol officer has certain immediate responsibilities, as follows.
  - a. The primary concern is the victim's physical well-being. Give attention to the victim's emergency medical needs. Ensure safety.
  - b. Preserve the crime scene. Call the evidence technician.
  - c. The officer shall be alert to any suspect in the vicinity. Give crime broadcast, if applicable.
  - d. The officer shall explain his or her role to the victim and what will be done at the scene and through follow-up.
2. The patrol officer shall obtain detailed information essential to determine what offense (or offenses) actually occurred. When this is not possible for any reason, the officer shall concentrate on obtaining information that will establish the basis for misdemeanor or felony offenses, and help determine appropriate police response in carrying out the arrest of any suspect.
3. Obtain preliminary statements from victim and witnesses. Try to establish rapport and obtain information needed immediately to determine the victim's greatest needs and the identity and/or location of the suspect. (See appendix to GO 2-28.)

4. The officer shall inform the victim, preferably in writing, of counseling services available in the area. (Inform the victim that the Criminal Injuries Compensation Fund pays counseling and other crime-related fees, if needed.) Ask whether the victim would prefer to have a support person (sexual assault crisis center advocate, family member, or friend) present if this has not already been done by dispatcher. Offer to contact this person.
5. The patrol officer shall arrange for transportation or transport the victim to the hospital for a sexual assault examination, if appropriate (if the assault occurred within the last 96 hours). Explain the medical and legal advantages of this exam. Inform the victim to take a change of clothing along. The officer may provide transportation back home following the exam. If the assault occurred more than 96 hours before, the officer shall still encourage the victim to seek medical help.
6. See GO 2-12 and Victim Services, GO 2-28, for additional guidance.
7. **Some localities have local protocols concerning the activation of the Sexual Assault Response Team (SART). If this applies to your locality, ensure that all protocols are also followed.**

D. Investigator responsibilities

1. The investigator shall obtain a complete report from the patrol officer assigned to the case.
2. The initial contact with the victim may happen in different ways:
  - a. At the crime scene: The patrol officer shall protect the crime scene and the investigator shall establish rapport with the victim, transport the victim to the hospital, and begin the preliminary investigation.
  - b. At the hospital: Arrange for the collection of evidence needed for prosecution. Explain sexual assault exam procedures, and establish rapport for further interviews. The investigator shall **not** be in the room during the sexual assault exam but shall have the victim sign a consent form in order to obtain a copy of the hospital report. (See appendix to GO 2-15).
  - c. At the department: Before interviewing, review the patrol officer's report and establish rapport with the victim by allowing her or him to ask preliminary questions or voice initial concerns.

3. The investigator shall be trained in sexual assault procedures.
  - a. The investigator shall allow the sexual assault crisis center advocate to be with the victim for support if the victim desires. (Establishing rapport and good working relationships with crisis center advocates as collaborating partners in advance of actually working an incident will promote more effective interactions with a victim when a crime does occur.)
  - b. Prepare the victim for each phase of the investigation. By explaining what must be done and the reasons why, the officer will encourage the victim's cooperation.
  - c. The earliest possible PERK exam must be done in the interests of victim health and safety, evidence collection and substance/drug identification. **All** victims should be encouraged to obtain this exam prior to interviews if possible, and regardless of their current willingness to prosecute or cooperate with the police investigation.
4. Follow-up interviews by the investigator.
  - a. Privacy is a necessity for follow-up interviews. Choose a quiet room free of distractions and interruptions at the department or go to the victim's home. A support person to aid the victim may be helpful to the investigation. Advise this person of his or her role and ask the person not to interfere with questioning.
    - (1) It is **not** appropriate to submit a victim to a polygraph exam. The investigator should anticipate some confusion, memory suppression or reluctance to discuss fear-inducing or humiliating details of the incident. This information should be obtained by patient, supportive rapport building, not by questioning a victim's veracity or motives.
    - (2) A false report charge should never be brought against a victim on grounds that the victim is hesitant or fearful to cooperate with the investigation.
    - (3) Avoid asking "WHY questions" that sound accusatory or judgmental about the victim's actions or behavior prior to the



assault. ("Why did you go to the house?" "Why did you accept a ride with him?")

- (4) Ask HOW questions instead ("How did you end up in the car with ---?")

b. Questions which must be addressed include the following.

- (1) Assault circumstances: Where approached? How? Where occurred? When?
- (2) Assailant: Name, if known? Age? Race? Color of hair? Clothing? Height? Weight? Identifying marks? Relationship to victim, if any?
- (3) Multiple assaults occur? Other crimes committed?
- (4) What happened during the assault? Were weapons used? Describe them. Were threats made? What were they? Was there a fight or struggle? Injuries sustained? Drugs/alcohol involved? Was the victim incapacitated in any way? Sexual detail--what did he do? Did he ejaculate? What was said?
- (5) How long was assailant with victim?
- (6) What did victim or the assailant do immediately after the attack?
- (7) Concerns about prosecuting?

c. At the conclusion of the interview, the investigator shall ask about any additional assistance needed. (Counseling services are always recommended.) ***[Refer the victim to the local sexual assault crisis center advocate and victim assistance program.]***

d. Inform the victim that it is common to remember additional details later. Encourage the victim to call if that happens or to ask questions. Give a number.

e. As soon as practicable, alert the victim/witness assistance program that a sexual assault has occurred. Provide the information necessary for staff to contact the victim.

Note: See GO 2-14 and Victim Services, GO 2-28, Investigator responsibilities, for additional guidance.

## 5. Evidence Collection--Sexual Assaults

### *a. General Rules*

1. Safeguard crime scene and evidence that is collected.
2. Call a crime scene unit or evidence technician, if available.
3. Use caution not to damage, mark, or contaminate evidence.
4. Initial and date all items seized.
5. Document chain of evidence in report.
6. Place all evidence in appropriate containers, seal, and initial.
7. See appendix to GO 2-14 for complete instructions.

### *b. At the Crime Scene*

1. Remember that evidence collection is intended not only to identify the criminal, but also to discover the exact manner in which the crime was committed, including preparations before and actions taken afterward to avoid detection. Evidence can also corroborate the victim's account of the assault (i.e. to combat the consent defense). During evidence collection, keep in mind all that you know from the victim about the manner in which the crime occurred. Also be alert to evidence that can tell you details that the victim does not know or remember.
2. DNA evidence is now one of the most important and reliable forms of physical evidence establishing the presence of a suspect at a crime scene. Any form of bodily fluid or other trace evidence may be used to identify the suspect's genetic identifiers – i.e. semen, saliva, urine, blood, hair, skin samples, etc. Even when the identity of the suspect is not in question, as in acquaintance rape cases, the presence of DNA and of trace evidence may be important to corroborating the victim's account of the incident.
3. Collect undergarments, clothing, bedding, rugs, smoking materials, or other appropriate items which may contain semen, blood, saliva, hairs, fibers, or other pieces of trace evidence, or items that might be damaged.
4. Collect wash cloths or towels which may have been used.

5. Collect bottles, glasses, or other objects which may contain latent prints.
6. Search scene for foreign objects (buttons, hair, pieces of torn clothing).
7. If crime occurred outdoors, take soil samples from several areas and sketch the location of each sample taken. Look for footprints or tire tracks or other physical signs that may be tied to a specific shoe, car or other object.
8. If crime occurred in a car, gather sweepings from seats and floors, search floor mats and seat covers for stains. It is often advisable to seize the vehicle so that a thorough search for evidence may be conducted by an evidence technician in a controlled environment.
9. If entry was forced into the victim's residence, gather samples of broken glass, paint samples, and note any pry marks or other signs of forced entry.
10. Photograph crime scene and physical evidence before collecting it.
11. Photograph bite marks, scratch marks, or other signs of brutality or injury to victim. Only female officers or medical personnel should photograph private sexual areas.
12. Proof of physical resistance by the victim is **not** required (VA Code 18.2-67.6). However, evidence indicating that a victim resisted, if it exists, must be preserved and gathered properly.

*c. Notes to be Prepared*

1. Prepare a diagram and a detailed description of exact location where each piece of evidence was found. [Example: Item #1 - one white bra, left strap torn, found on the ground in rear yard of (address), 6 feet south of rear stairs.] With multiple items of evidence, numbering each one will make it easier to complete a detailed diagram of the scene.
2. Description of victim's appearance and behavior.

Note: bruises or marks, facial discoloration, disarrayed clothing, smeared makeup, hair disheveled, confused or dazed behavior, bewilderment or disorientation, apparent hysteria or crying, incoherent speech. Remember that a victim may also appear calm and seemingly in control of her emotions. Do not make judgments of veracity or severity of the crime based solely on appearance.

3. Description of victim's clothing. Note locations of torn garments, dirt, stains--blood, semen, grass.
4. Description of suspect. Physical description as provided by victim with special attention to details which would not be readily visible if the suspect were clothed: scars, tattoos, moles.
5. Have all signs of trauma or injury, as well as emotional state of the victim, recorded on hospital record. Review the examination with examining medical staff person to be certain that smears are taken from vagina, anus, and mouth of victim, as dictated by the nature of the assault. It is **not** necessary for maintaining the chain of evidence, and it is not appropriate for an officer to be present at the time of the PERK exam. The victim needs privacy to get through this experience and the officer lacks the expertise to testify regarding the exam done by medical professionals.
6. **Some localities have local protocols concerning the activation of the Sexual Assault Response Team (SART). If this applies to your locality, ensure that all protocols are also followed.**